

July 2, 2003 BZA



REQUEST ANALYSIS
AND
RECOMMENDATION

03AN0287

James F. and Paulanne H. Thacker

Matoaca Magisterial District
4701 and 4801 Woolridge Road

REQUEST: Appeal the decision of the Director of Planning regarding the interpretation of the word "employee".

RECOMMENDATION

Recommend that the Board uphold the decision of the Director of Planning.

GENERAL INFORMATION

Location:

Property is known as 4701 and 4801 Woolridge Road. Tax IDs 720-682-0474 and 3924 (Sheet 9).

Existing Zoning:

A

Size:

10.7 acres

Existing Land Use:

Residential

Adjacent Zoning and Land Use:

North - A and R-9; Residential, vacant and Swift Creek Reservoir
South - A and R-9; Residential, vacant and Swift Creek Reservoir
East - A and R-9; Residential, vacant and Swift Creek Reservoir
West - A and R-40; Residential, vacant and Swift Creek Reservoir

Utilities:

Private well and septic system

General Plan:

(Upper Swift Creek Plan)

Residential
(2.0 units per acre or less)

DISCUSSION

James F. and Paulanne H. Thacker (the "Thackers") appeal a March 17, 2003, written decision of the Director of Planning regarding the definition of the term "employee" as contained in Condition 3 to a Special Exception granted by the Board of Zoning Appeals ("BZA") in Case 03AN0102.

On September 4, 2002, the Thackers came before the BZA requesting a Special Exception to operate a bed and breakfast and special events business on property know as 4701 and 4801 Woolridge Road. The BZA granted the Special Exception but imposed conditions tailoring the Thackers' use of the property in order to minimize staff concerns and potential effect to the surrounding neighborhood. Among these conditions was a limitation on the number of employees permitted for the special events. Condition 3 reads:

"Special event shall be limited to the use of the house, pool and yard (except for the bed and breakfast). Other than the owner or operator of the business, only five (5) employees shall be engaged in the special events." (emphasis added)

The BZA entertained lengthy discussion on the issues and conditions involved in this case. The BZA specifically reviewed alternate language submitted by the Thackers for Condition 3. The condition proposed by the Thackers stated:

Special event shall be limited to the use of the house, pool and yard (except for the bed and breakfast). A full and part-time staff of five (5) to eight (8) employees and independent contractors for interior and exterior maintenance and cleaning of both residences, landscaping and grounds and gardens. Also to include professional caterers, bartenders and food service personnel to be engaged from local licensed contractors.

The Thackers' condition distinguished between employees and independent contractors with a laundry list of additional jobs included. The BZA declined to make Condition 3 as expansive as that

proposed by the Thackers instead, adopting staff's language and using only the term "employee" to encompass all special events workers.

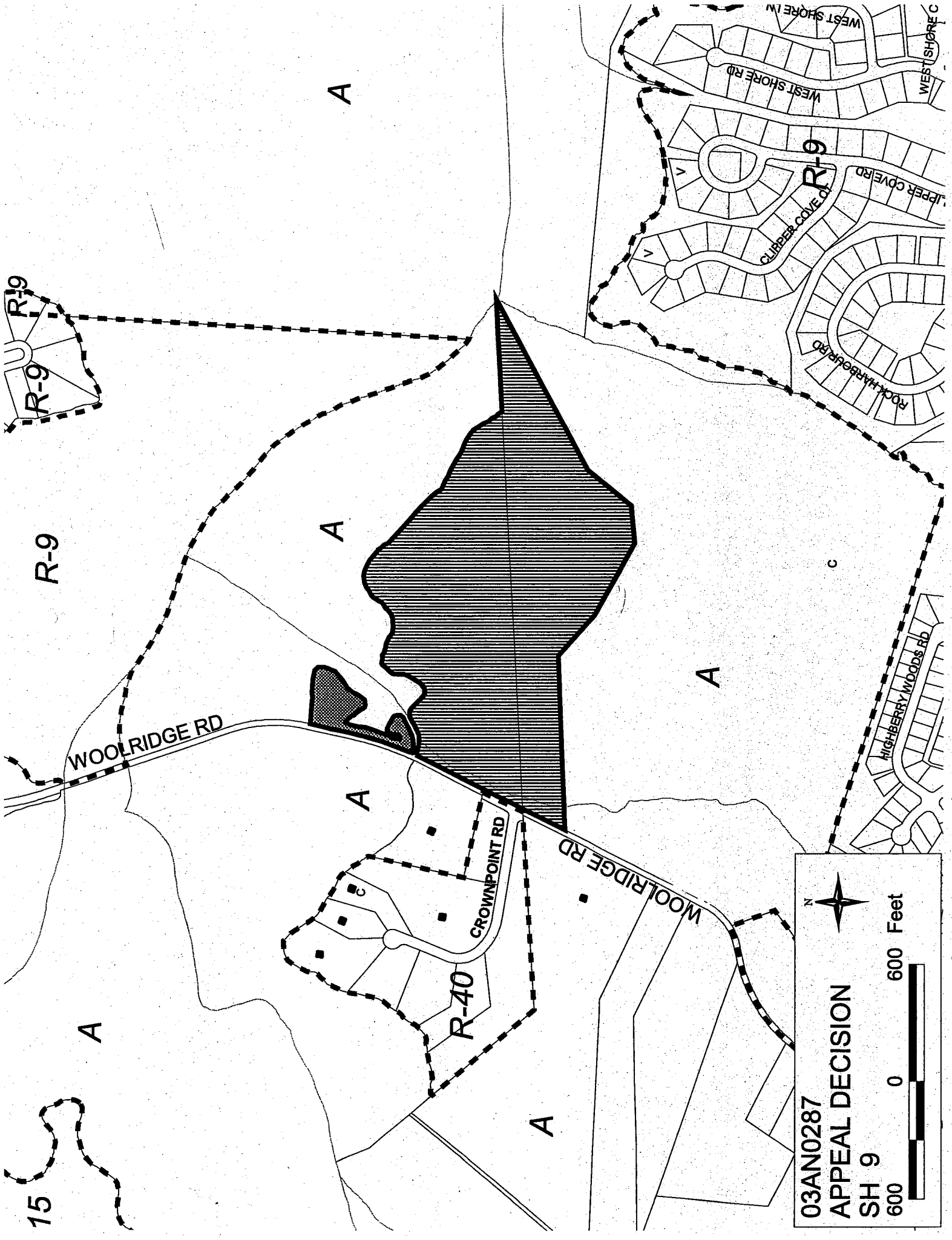
During the course of the September 4th hearing, the BZA was clear in its intention to limit the Special Exception as to ensure that the business would not become a primary use rather than an accessory use. The final choice of Condition 3 language imposed by the BZA was intentionally selected, keeping staff's limiting language when for other conditions modifications were made in an effort to compromise on use restrictions. For example, staff recommended that the special events business be permitted to operate only on Friday and Saturday evenings. The BZA expanded permissible hours to include Monday-Thursday and Sunday.

The Director of Planning has consistently interpreted the definition of "employee" as applied to Condition 3 to include every individual working an event. This interpretation was made in writing on three (3) separate occasions: a December 27, 2002, letter to Michael C. Hall, Esquire; the March 17, 2003, letter to the Thackers from which this appeal stems; and a March 20, 2003, letter to adjacent property owner Kevin Healy.

The Special Exception on the Thacker property is for a period of three (3) years; however, the Thackers are not precluded from applying and coming before the BZA to request an amendment to Special Events Condition 3.

Accordingly, staff recommends that the Board of Zoning Appeals uphold the determination of the Director of Planning.

The Board may affirm or reverse the decision of the Director of Planning, in whole or part, or may modify the decision. The affirmative vote of at least three (3) members is necessary to reverse the decision or to decide in favor of the appellant. (County Code Section19-20(d)).



03AN0287
APPEAL DECISION
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Chesterfield County, Virginia
Board of Zoning Appeals
September 4, 2002

PRESENT:

Mr. Joseph L. Biggs, Chairman
Mr. W. Baxter Perkinson, Sr., Vice-Chairman
Mr. John E. Caperton
Mr. Graham C. Daniels
Mr. H. Stephen Moore, Jr.

ALSO PRESENT:

Mr. J. Michael Janosik, Secretary to the
Board of Zoning Appeals, Zoning Administrator,
Planning Department
Ms. Donna McClurg, Planner,
Planning Department
Ms. Nell Rigali, Assistant Deputy Clerk,
Planning Department
Mr. Michael Kozak, Assistant County Attorney,
County Attorney's Office
Mr. Gregory E. Allen, Planning Administrator
Development Review, Planning Department
Mr. David Robinson, Assistant County Attorney,
County Attorney's Office

At approximately 11:15 a. m., Messrs. Biggs, Perkinson, Caperton, Daniels, Moore and staff met at King's Korner Restaurant (Chesterfield Airport) for lunch and a work session. During lunch, there was discussion pertaining to the cases being heard at the Board of Zoning Appeals meeting.

At approximately 1:00 p. m., Mr. Biggs, Chairman, called the meeting to order in the Public Meeting Room, Chesterfield County Administration Building.

The invocation was given by Mr. Perkinson.

03AN0102: In Matoaca Magisterial District, **JAMES F. AND PAULANNE H. THACKER** requested a Special Exception to operate a bed and breakfast and special events business from the home and amendment of zoning district map. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for residential use of 2.0 units per acre or less. This property is known as 4701 and 4801 Woolridge Road. Tax ID 720-682-Part of 0474 and 3924 (Sheet (9)).

Ms. Donna McClurg gave the background information and staff's recommendation for approval of Case 03AN0102, subject to the conditions recommended by staff.

Mr. James Thacker, one of the applicants, came forward to represent the request and accepted the five (5) conditions for the bed and breakfast that were recommended by staff. He stated that he had heard no opposition to the request, only support.

There was no opposition present.

Mr. Biggs asked for those present in support of the request to stand; three (3) individuals stood in support of the request.

Mr. Thacker stated that most of the proposed events would be held on weekends and would not occur during peak traffic hours. He further stated that the entire property was well-buffered and would not be a detriment to the surrounding area.

Mr. Daniels stated that the subject property was certainly appropriate for special events. He felt that since the property was so large and well-buffered that some of the conditions could be amended to be less restrictive.

Mr. Caperton stated that the property was very special and unique, private and well concealed and he could support approval of the request with some reservation. He felt the request could become a primary use rather than an accessory use if the number of events weren't limited.

At approximately 2:27 p. m. Mr. David Robinson, Assistant County Attorney, replaced Mr. Kozak on the dais.

On motion of Mr. Daniels, seconded by Mr. Moore, the Board resolved to approve the request for a bed and breakfast from the home in Case 03AN0102, subject to the following conditions:

CONDITIONS (Bed/Breakfast)

1. Special Exception shall be granted to and for James F. and Paulanne H. Thacker, exclusively, and shall not be transferable nor run with the land.

2. Special Exception shall be limited to the operation of a bed and breakfast, exclusively.
3. No additions or alteration that would increase the capacity of this operation shall be permitted to the exterior of the dwelling. This does not preclude any routine maintenance or cosmetic alteration.
4. Special Exception shall be granted for a period not to exceed three (3) years from date of approval and may be renewed upon satisfactory reapplication and demonstration that the bed and breakfast operation has not proved a detriment to the adjacent property or the area in general.
5. Only a sixteen (16) square foot sign shall be permitted.

On motion of Mr. Daniels, seconded by Mr. Moore, the Board resolved to approve the request for a special events business (facility) from the home in Case 03AN0102, subject to the following amended conditions:

CONDITIONS (Special Events)

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| (Staff) | 1. Special Exception shall be granted to and for James F. and Paulanne H. Thacker, exclusively, and shall not be transferable nor run with the land. |
| (Staff) | 2. Special Exception shall be granted for a period not to exceed three (3) years from date of approval and may be renewed upon satisfactory reapplication and demonstration that the special event business has not proved a detriment to the adjacent property or the area in general. |
| (Staff) | 3. Special event shall be limited to the use of the house, pool and yard (except for the bed and breakfast). Other than the owner or operator of the business, only five (5) employees shall be engaged in the special events. |
| (Staff) | 4. No additions or alterations related to this business shall be permitted to the exterior of the dwelling. This does not preclude any routine maintenance or cosmetic alteration. |
| (Staff) | 5. The hours of operation of the special events shall be restricted as follows:
Monday - Thursday 11:30 a.m. to 11:00 p.m.
Friday and Saturday 10:00 a.m. to 12:00 p.m.
Sunday 12:30 p.m. to 10:00 p.m.
(except Dec. 31st) 12:30 p.m. to 2:00 a.m. (BZA) |

- (Staff) 6. No vendor deliveries shall be permitted before 9:00 a.m. or after 6:00 p.m. and such deliveries shall be restricted to Friday and Saturday only.
- (Staff) 7. Not more than one-fourth ($\frac{1}{4}$) of one (1) floor of the main house shall be used for administration/office use associated with this business. All activity associated with the business use of the property shall be restricted to the main floor of the house.
- (Staff) 8. No trash dumpsters shall be permitted.
- (NOTE: Solid waste storage areas (garbage cans shall be screened from view of adjacent property and public rights of way by a solid fence, wall, dense evergreen plantings or architectural feature. The solid waste storage areas shall not be serviced between the hours of 9:00 p.m. and 6:00 a.m.)
- (Staff) 9. No vehicles shall be permitted to park within the public road rights of way adjacent to this property.
- (Staff) 10. A security officer shall be provided at all events with 100 or more guests to direct traffic in and out of the property and to monitor the lawful conduct of guests attending the event. (BZA)
- (Staff) 11. All exterior lights for the facility shall be arranged and installed so that the direct or reflected illumination does not exceed 0.5 foot candles above background measured at the lot line of any adjoining parcel. Light standards shall be of a directional-type capable of shielding the light source from direct view from any adjoining parcel or public right of way. Further, no exterior lighting shall be higher than twenty (20) feet.
- (Staff) 12. All alcohol will cease to be served one (1) hour prior to the end of any function.
- (Staff) 13. Live and DJ music will be allowed at a decibel level determined by the County as appropriate for this use.
- (Staff) 14. At any time that the property to the south of the request site is developed for residential purposes, a landscape plan shall be submitted to the Planning Department that shows that existing and supplemental on-site landscaping between the special events areas and adjacent residential property provides a buffer equal in density to the density of a 100 foot buffer as described by the Zoning Ordinance.

(NOTE: This use requires site plan approval.)

AYES: Messrs. Biggs, Perkinson, Caperton, Daniels and Moore.